

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RENATO PONTA-GARCIA,

Petitioner,

v.

MARY SABOL,

Respondent.

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: CIVIL ACTION NO. 3:11-CV-1126

: (JUDGE CONABOY)

: (Magistrate Judge Blewitt)

FILED
SCRANTON

OCT 27 2011

PER KM
DEPUTY CLERK

ORDER

AND NOW, THIS 27th DAY OF OCTOBER 2011, IT

APPEARING TO THE COURT THAT:

1. Petitioner, a detainee of the Immigration and Customs Enforcement Agency ("ICE") currently housed at the York County Prison, York, Pennsylvania, filed this habeas corpus action on June 13, 2011 (Doc. 1);

2. The matter was assigned to United States Magistrate Judge Thomas M. Blewitt, who issued a Report and Recommendation (Doc. 12) on October 7, 2011, recommending the instant petition be dismissed;

3. No objections were filed to the Magistrate Judge's Report and Recommendation and the time for such filing has passed.

IT FURTHER APPEARING TO THE COURT THAT:


1. When a magistrate judge makes a finding or ruling on a motion or issue, his determination should become that of the court unless objections are filed. *See Thomas v. Arn*, 474 U.S. 150-53 (1985). Moreover, when no objections are filed, the district court

is required only to review the record for "clear error" prior to accepting a magistrate judge's recommendation. See *Cruz v. Chater*, 990 F. Supp. 375-78 (M.D. Pa. 1998); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998).

2. We find no clear error in the Magistrate Judge's conclusion that this Petition for Writ of Habeas Corpus should be dismissed based on the timing of the ninety-day removal period triggered by the Third Circuit's decision to deny Petitioner's Petition for review of his final removal order. (See Doc. 12 at 6-11.)

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. The Magistrate Judge's Report and Recommendation, (Doc. 12), is **ADOPTED**;
2. The Petition for Writ of Habeas Corpus, (Doc. 1), is **DISMISSED**;
3. There is no basis for the issuance of a certificate of appealability in the Court of Appeals for the Third Circuit;
4. The Clerk of Court is directed to close this case.


RICHARD P. CONABOY
United States District Judge